

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:20-CV-00728-GCM**

**KITCHEN & ASSOCIATES
SERVICES, INC.,**

Plaintiff,

v.

HAVEN CAMPUS COMMUNITIES,

Defendant.

ORDER

THIS MATTER comes before the Court upon nominal Plaintiff/Counterclaim Defendant Kitchen & Associates, Services, Inc.’s Motion to Dismiss, which was filed on March 11, 2021. Haven Campus Communities (“Haven”) failed to file a response to the Motion, the deadline for which has now expired.

This case was originally filed in New Jersey state court and removed to the United States District Court for the District of New Jersey. A portion of Haven’s counterclaims in the case arose from acts or events occurring on a project in North Carolina, and those counterclaims were subsequently transferred to this Court. Following the transfer of those counterclaims, Haven’s counsel failed to associate with local counsel or make any other filing on behalf of Haven. The Clerk of Court issued two notices directing Haven to associate with local counsel and file a motion seeking *pro hac vice* admission, in accordance with Local Rule 83.1, and this Court issued an order regarding the same. *See* Doc. 62. Haven failed to comply.

Kitchen is entitled to dismissal of Haven’s claims due to Haven’s failure to comply with the Local Rules and this Court’s Order from January 27, 2021. *See Flame S.A. v. Freight Bulk Pte. Ltd.*, 762 F.3d 352, 355 (4th Cir. 2014); *C.H. v. Asheville City Bd. of Educ.*, No. 1:12-CV–

000377–MR–DLH, 2014 WL 1092290, at *3 (W.D.N.C. Mar. 18, 2014); *see also Masi v Mythical Entm't*, No. 5:19-CV-438-FL, 2020 WL 1490704, at *1–2 (E.D.N.C. Mar. 24, 2020); Fed. R. Civ.

P. 41. Haven was provided ample opportunity to comply with the Local Rules and this Court's Order but failed to do so. Having now considered the facts and circumstances of the Motion, as well as the applicable law, the Court concludes that the Motion should be **GRANTED**.

IT IS THEREFORE ORDERED that:

1. Haven Campus Community's North Carolina Claims, which arise from acts or events occurring in North Carolina and are labeled as Counterclaims 2 through 5, and which were transferred to this Court by an order entered by the District of New Jersey, shall be **DISMISSED**;
2. The costs of this action are taxed to Haven Campus Communities; and
3. The Clerk is directed to close this case.

SO ORDERED.

Signed: May 24, 2021

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

